

## **REMARKS/ARGUMENTS**

In the Final Office Action, the Examiner has rejected claims 1-57 and 104 under 35 U.S.C. 103(a).

The Applicant respectfully reiterates the arguments submitted in an amendment dated November 20, 2003 and respectfully submits that the Examiner's rejection is improper and should be withdrawn. In addition, the Applicant respectfully submits that the claimed invention is patentable over US Patent Number 6,379,247 (*Walker et al.*), US Patent Number 6,142,876 (*Cumbers*) and US Patent Number 5,816,918 (*Kelly et al.*) for these additional reasons.

***(a) Cumbers does not teach or suggest: determining automatically that a patron has begun an activity for which at least one or player tracking points and comps are accrued (claim 1).***

Contrary to the Examiner's assertion, it is respectfully submitted that "passively tracking the play of a player" by using "a camera that scans the player and acquires facial image data which is compared to stored data to identify the player" does not teach this claimed feature (Final Office Action, page 3, citing the abstract of *Cumbers*). Clearly, identifying a player by comparing facial image data does not teach determining that a patron has begun an activity for which at least one of player tracking points and comps are accrued. It is noted that *Cumbers* states: "[t]he identified player's account file is opened and data from the device representing parameters of play, e.g. amounts wagered is allocated to the identified player's account file for the purpose of providing comps and other benefits to the player" (*Cumbers*, Abstract).

However, it is respectfully submitted that allocating parameters of play to an identified player does not in itself teach determining that a patron has begun an activity for which player tracking points or comps are accrued. Instead, *Cumbers* teaches allocating parameters of play to an identified player, wherein the parameters of play, such as a wager amount, can be used to the purpose of providing comps based on criteria other than the facial image data.

***(b) Walker et al. and Cumbers cannot be combined to teach the claimed feature awarding a patron player tracking points without receiving identification information or account information (claim 1).***

*Cumbers* teaches identifying players based on facial image data captured by a camera. As such, *Cumbers* cannot be combined with another reference to teach the claimed feature of awarding tracking points without receiving identification or account information. Clearly, such a combination would render *Cumbers* inoperable for its intended purpose of identifying players based on facial image data.

***(c) The Examiner has not provided a proper motivation or suggestion for combining the references.***

It is respectfully submitted that “maintaining high level of profits,” and “a back up system that would allow players to continue gaming in the event there was a electrical or mechanical malfunction” (Final Office Action, page 4), does not constitute a proper motivation or suggestion for combining the references in the first place. The Examiner needs to provide a motivation or suggestion in the references themselves. Instead, the Examiner has used the Applicant’s own disclosure as a template and proceeded to merely assert the benefits that could be derived after combining the claimed features.

***(d) The cited art does not teach or suggest: determining automatically that a patron has begun an activity for which at least one of player tracking points and comps are accrued without receiving identification information or account information (claim 1).***

It is respectfully submitted that claim 1 is patentable over the cited art for this additional reason.

***(e) The cited art does not teach or suggest: accruing automatically player tracking points for a patron without receiving identification information or account information.***

It is respectfully submitted that claim 1 is patentable over the cited art for yet this additional reason.

## **CONCLUSION**

Based on the foregoing, it is submitted that the claims are patentably distinct over the cited art of record. Additional limitations recited in the independent claims or the dependent claims are not further discussed because the limitations discussed above are sufficient to distinguish the claimed invention from the cited art. Accordingly, Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner.

Applicant hereby petitions for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 500388 (Order No. IGT1P061). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
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